

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

BEN SAUER,	:	APPEAL NO. C-160912
	:	TRIAL NOS. 16CV-09577
and	:	16CV-15305
BN HOMEOWNERS,	:	<i>JUDGMENT ENTRY.</i>
Plaintiffs-Appellees,	:	
vs.	:	
DIANA NIKIAS-HARRISON,	:	
and	:	
SIMON HARRISON,	:	
Defendants-Appellants.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendants-appellants Diana Nikias-Harrison and Simon Harrison (collectively “the Harrisons”) appeal from decisions of the Hamilton County Municipal Court granting summary judgment to plaintiffs-appellees Ben Sauer and BN Homeowners (collectively “Sauer”) and ordering the release of escrowed rent payments to Sauer. We cannot address the merits of the Harrisons’ three assignments of error because we find that the appeal is moot.

The Harrisons’ claim for retaliatory eviction is moot because the Harrisons voluntarily vacated the premises. Therefore, we cannot render a judgment that can

OHIO FIRST DISTRICT COURT OF APPEALS

be carried into effect. *See Schwab v. Lattimore*, 160 Ohio App.3d 12, 2006-Ohio-1372, 848 N.E.2d 912, ¶ 10-11 (1st Dist.).

As to the claim for the release of the funds held in escrow, the trial court ordered the clerk to release the funds and the record shows that those funds were disbursed. The voluntary satisfaction of a judgment renders an appeal from that judgment moot and puts an end to the controversy. *Blodgett v. Blodgett*, 49 Ohio St.3d 243, 245, 551 N.E.2d 1249 (1990); *Baird v. L.A.D. Holdings, LLC*, 1st Dist. Hamilton Nos. C-160265 and C-160409, 2017-Ohio-2953, ¶ 14; *Wiest v. Wiegele*, 170 Ohio App.3d 700, 2006-Ohio-5348, 868 N.E.2d 1040, ¶ 12 (1st Dist.).

The Harrisons did not voluntarily pay the judgment. The trial court ordered the escrow funds released. But a party is considered to have acted voluntarily in satisfying a judgment when that party fails to seek a stay while appealing the trial court's judgment. *Wiest* at ¶ 13. Because the Harrisons did not seek a stay of the trial court's order, they voluntarily satisfied the judgment and the appeal from that judgment is moot. *Id.* at 14. Because the appeal from both judgments is moot, we have no choice but to dismiss the appeal. *See Baird* at ¶ 14; *Wiest* at ¶ 12. The appeal is dismissed.

A certified copy of this judgment entry constitutes the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

MOCK, P.J., ZAYAS and MYERS, JJ.

To the clerk:

Enter upon the journal of the court on November 1, 2017
per order of the court _____
Presiding Judge